

REMARKS

By this Amendment, claims 1-22 are canceled and claims 23-31 are added. Support for the new claims may be found, for example, in the original claims and the specification. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

I. Objection to the Claims

The Office Action objects to claim 1 (newly re-written claim 23) for an informality. In particular, the Office Action states that the acronym "NGF" should be initially spelled out, followed by an acronym in parentheses. By this Amendment, claim 23 incorporates the Examiner's helpful suggestion, as indicated above. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

II. Rejection under 35 U.S.C. §112

The Office Action rejects claim 1 (newly re-written claim 23) under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By this Amendment, claim 23 recites "obtained from patient" instead of "derived from patient," as suggested by the Examiner. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

III. Rejection under 35 U.S.C. §102(b)

The Office Action rejects claims 1-5 and 16 under 35 U.S.C. §102(b) as being anticipated by Sakamoto et al., Oncol Rep, Sep-Oct 2001, 8:973-980 ("Sakamoto"). Applicants respectfully traverse the rejection.

Claim 23, which corresponds to canceled claim 1, recites: "A method for the *in vitro* diagnosis of breast cancer, comprising determining the presence of Nerve Growth Factor (NGF) in a biological sample obtained from a patient suspected of suffering from breast

cancer, wherein the biological sample consists of biological fluid." Sakamoto does not disclose such a method.

Instead, Sakamoto discloses a method for diagnosing breast cancer by using immunohistochemistry on tissues obtained from invasive ductal breast carcinoma to detect NGF. Claim 23 requires that the "biological sample obtained from a patient suspected of suffering from breast cancer...comprises a biological fluid." Despite its asserted disclosures, Sakamoto does not expressly or inherently describe the use of a biological fluid for the diagnosis of breast cancer, as required by claim 23. Thus, Sakamoto does not expressly or inherently describe each and every feature of claim 23 and, thus, does not anticipate the claim.

Sakamoto does not anticipate claim 23. Claims 24-31 variously depend from claim 23 and, thus, also are not anticipated by Sakamoto. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

IV. Rejection under 35 U.S.C. §103(a)

The Office Action rejects claims 6, 7, and 9-11 under 35 U.S.C. §103(a) over Sakamoto, further in view of WO 97/38313 to Ts'o ("Ts'o") and Varilek et al., Am J. Physiol. 1995, 269:G445-G452 ("Varilek"). Applicants respectfully traverse the rejection.

For the reasons discussed above, Sakamoto fails to teach all of the features of independent claim 23. Notwithstanding their asserted disclosures, Ts'o and Varilek fail to cure the deficiencies of Sakamoto. Therefore, Sakamoto, Ts'o and Varilek, considered either separately or in combination, fail to teach or suggest all of the features of independent claim 23.

Claim 23 would not have been rendered obvious by Sakamoto, Ts'o and Varilek. Claims 24-31 variously depend from claim 23 and, thus, also would not have been rendered

obvious by Sakamoto, Ts'o and Varilek. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

V. Rejection under 35 U.S.C. §103(a)

The Office Action rejects claim 8 under 35 U.S.C. §103(a) over Sakamoto, in view of Ts'o, and further in view of Picker et al., Blood, 1995, 86:1408-1419 ("Picker"). Applicants respectfully traverse the rejection.

For the reasons discussed above, Sakamoto and Ts'o fail to teach or suggest each and every feature of independent claim 23. Regardless of its asserted disclosures, Picker does not cure the deficiencies of Sakamoto and Ts'o. Therefore, Sakamoto, Ts'o and Picker, considered either separately or in combination, fail to teach or suggest all of the features of claim 23.

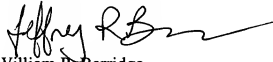
Claim 23 would not have been rendered obvious by Sakamoto, Ts'o and Picker. Claim 28, which corresponds to canceled claim 8, depends from claim 23 and, thus, also would not have been rendered obvious by Sakamoto, Ts'o and Picker. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

VI. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Jeffrey R. Bousquet
Registration No. 57,771

WPB:JXT/axl

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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